

*Gary S. Fish*  
Gary S. Fish, Esq. (GSF 6551)  
Attorney for the Plaintiff  
30 Vesey Street, 15<sup>th</sup> Floor  
New York, New York 10007  
(212) 964-5100

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X CASE NO:  
THURMAN TURNER,

PLAINTIFF,

PLAINTIFF'S COMPLAINT

-against-

(Plaintiff demands a trial by jury  
Of all issues herein)

THE CITY OF NEW YORK; "JOHN DOE" AND  
"RICHARD ROE",

DEFENDANTS.

-----X

The plaintiff, by and through his attorney Gary S. Fish, Esq., sets forth the following  
as his Complaint

I. PARTIES AND JURISDICTION

1. On or about July 15, 2016, and at all times relevant herein, the plaintiff, an African-American Male, resided and resides at 230 West 129<sup>th</sup> Street, #12C, NY, NY 10027.
2. On or about July 15, 2016. and at all times relevant herein, on information and belief, the defendant The City of New York was and is a domestic corporation lawfully organized and existing under the laws of the State of New York, and on said date and at all times relevant herein, said defendant had and has a principal place of business located at 530 Municipal

Building, New York, New York 10007.

3. On or about July 15, 2016,, and at all times relevant herein, on information and belief, defendants “John Doe” and “Richard Roe”, are NYPD police officers, whose true names are presently unascertained, and each act of wrongdoing herein after alleged to have been committed by said defendants was committed within the scope of their agency and/or authority and/or employment and/or a municipality implemented policy, statement, ordinance, regulation and/or decision officially adopted by that body’s officers, resulting in the herein after stated constitutional violations, on behalf of defendant The City of New York, which expressly and/or impliedly ratified each act of wrongdoing herein after alleged to have been committed by defendants “John Doe” and “Richard Roe”.

4. Pursuant to 28 U.S.C. Section 1343(a)(3), the Federal Court herein has original jurisdiction to redress the deprivation of civil rights under color of any State law, statute, ordinance of any right privilege, or immunity secured by the U.S. Constitution, providing for equal rights of citizens or of all persons within U.S. jurisdiction, and jurisdiction exists herein.

5. Pursuant to 28 U.S.C. Section 1391(b), in a case in which jurisdiction is not solely founded on diversity jurisdiction, such as the present case, venue is proper where the defendant resides or a judicial district where a substantial part of the events giving rise to the claim occurred, and venue is proper therefor in the United States District Court, Southern District of NY.

COUNT I  
(VIOLATION OF 42 U.S.C SECTION 1983, MALICIOUS  
PROSECUTION)

6. On or about July 15, 2016, at approximately 8:00 PM, while plaintiff was lawfully traversing in and around 130<sup>th</sup> and 7<sup>th</sup> Avenue, NY, NY, and was walking down the street,

he was wrongfully, intentionally, without probable and/or without warrant, arrested for possession of 25 grams of marijuana, even though he was not smoking any such substance, and even though he had not displayed in public any such substance.

7. The criminal case brought against plaintiff, Docket #2016NY043331, Criminal Court of City of New York, County of New York, 100 Church Street, NY, NY 10013, was brought willfully, intentionally, without probable cause, was brought maliciously, and was favorably terminated on or about January 4, 2017,, dismissed on motion of the District Attorney, Judge Eileen Koretz, Part BTP1, which certificate of disposition is attached hereto. The CPL Section 160.50 executed and notarized unsealing authorization is also attached hereto, both as Plaintiff Exhibit "1".

8. The criminal prosecution of plaintiff, an African-American Male was part of a municipality implemented policy, statement, ordinance, regulation and/or decision to arrest and criminally prosecute individuals, including African-American Males, who allegedly committed marijuana-related violations in public, , which said policy was officially adopted by that body's officers, resulting in constitutional violations herein, and defendant The City of New York expressly and/or impliedly ratified said conduct herein.

9. Defendant The City of New York, and/or its agents, servants and/or employees suppressed exculpatory evidence and/or fabricated inculpatory evidence herein, because the omniform arrest report stated under Details "At t/p/o (time and place of occurrence), defendant was in possession of 25 grams of marijuana", page 3 of the omniform arrest report stated that defendant, plaintiff herein was in possession , Property Type, "Marijuana/Hashish", The Property Clerk Invoice stated that the Controlled Substance was "ALLEGED (My emphasis) marijuana", And the sworn supporting deposition statement stated that defendant Turner, plaintiff

herein, was in possession of “ MORE THAN (My emphasis) of 25 grams” of marijuana. All said documents are attached as Plaintiff Exhibit “2” herein.

10 Defendants violation of 42 U.S.C. Section 1983, was wilful, and deliberate, wrongful, intentional, egregious, oppressive and opprobrious, was calculated to and did result in loss of plaintiff’s liberty and property rights, and defendants are therefor liable for punitive damages.

11. As a result of defendants violation of 42 U.S.C. Section 1983, the plaintiff incurred reasonable attorney fees and costs.


WHEREFORE, plaintiff prays for relief as follows:

AS AND FOR THE FIRST COUNT:

1. For damages in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00);
2. For punitive and exemplary damages in the amount of One Million Dollars and Zero Cents (\$1,000,000.00);
3. For reasonable attorney fees;
- 4 For costs;
5. For disbursements; and
6. For any other just relief deemed proper by the Court.

DATED: NEW YORK, NEW YORK  
DECEMBER 9, 2019

Respectfully submitted,

  
\_\_\_\_\_  
Gary S. Fish, Esq. (GSF 6551); (212) 964-5100  
Attorney for the Plaintiff, 30 Vesey Street, 15th  
Floor, NY, NY 10007



Plaintiff  
Exhibit "1"

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK  
VS

CERTIFICATE OF DISPOSITION  
NUMBER: 532770

TURNER, THURMAN  
Defendant

230 WEST 129TH STREET  
Address

MANHATTAN NY  
City State Zip

Docket Number: 2016NY043331

PL 221.10 02 BM, PL 221.05 00 V,  
Arraignment Charges

[REDACTED]  
Date of Birth

966857GZ  
NYSID Number

07/15/2016  
Date of Arrest/Issue

Summons No:

Case Disposition Information:

Date Court Action  
01/04/2017 DISMISSED - MOTION OF DA

Judge  
KORETZ, E

Part  
BTPI

NO FEE CERTIFICATION

☐ GOVERNMENT AGENCY

☐ COUNSEL ASSIGNED

☐ NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED  
SOURCE ☐ ACCUSATORY INSTRUMENT ☐ DOCKET BOOK/CRIMS ☐ CRC3030 [CRS963]

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN  
THIS COURT.

CALDERON, N  
COURT OFFICIAL SIGNATURE AND SEAL

04/03/2018  
DATE

FEE: NONE

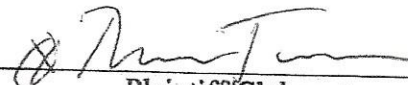
(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT  
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

SEALED

Pursuant to Section 160.50 of the CPL

**CONSENT AND AUTHORIZATION FOR RELEASE OF RECORDS SEALED BY  
LAW, INCLUDING RECORDS SEALED PURSUANT TO CRIMINAL PROCEDURE  
LAW § 160.50**

Whereas, I, Thurman Turner, residing at 230 West 129th St, NYC, NY 10027, date of birth: 6-3-1984, and Social Security # 115-68-7537, NYSID # \_\_\_\_\_, having caused a notice of claim to be filed or commencing an action/lawsuit against THE CITY OF NEW YORK, demanding money damages for false arrest, false imprisonment, malicious prosecution, assault and battery, and/or other allegations, I hereby waive my statutory rights, for purposes of this claim/action/lawsuit, to keep sealed the records of my arrest on or about July ~~10~~<sup>15</sup>, 2016 and prosecution, including all records maintained by law enforcement agencies, criminal courts, and/or district attorney's office. If my case proceeded in the criminal courts, the docket # was #2016 NY 043331 and the arrest case was dismissed on or about January 4, 2017, Criminal Court of City of New York County of New York, 100 Lake St, NY 10013. Whereas, it is necessary for the above named defendant(s) to have access to the aforementioned records of my arrest and any related criminal proceedings and incarceration in order to evaluate and review my claims, and prepare its defense thereto, I hereby authorize any and all governmental agencies, bodies and employees having custody of such records to release such records to the Office of the Comptroller or the Office of the Corporation Counsel of the City of New York, or its authorized agent or employee. I specifically authorize the New York City Police Department; New York County District Attorney's Office; New York State Supreme Court, New York County, Criminal Term; and New York City Criminal Court to disclose any and all records in their possession relating to the aforementioned arrest/prosecution and docket number to the Office of the Corporation Counsel of the City of New York, or its authorized agent or employee.

  
\_\_\_\_\_  
Plaintiff/Claimant  
Thurman Turner

Sworn to before me this 9 day of December, 20019

  
\_\_\_\_\_  
NOTARY PUBLIC

CYNTHIA BLANDINO  
Commissioner of Records, City of New York  
No. 67181  
Cert. Filed in New York County  
Commission Expires 1, 20

July 21

Plaintiff

Exhibit "2"



EST Report - M16649719

Page 3 of 3  
DEF 00003

|   |                |   |                 |
|---|----------------|---|-----------------|
| <b>CALL # NUMBER DIALED NAME - PROVIDED BY DEFENDANT NAME AS LISTED IN CELL PHONE RELATIONSHIP CALL COMPLETED</b> |                |   |                 |
| 1   | --             | REFUSED, REFUSED  |                 |
| SEALED  |                | SEALED  |                 |
| <b>INVOICES:</b>  |                | Arrest #: M16649719   |                 |
| <b>INVOICE#</b>   | <b>COMMAND</b> | <b>PROPERTY TYPE</b>  | <b>VALUE</b>    |
| 1000826833  |                | MARIJUANA/HASHISH   | UNKNOWN         |
| SEALED  |                | SEALED  |                 |
| <b>ARRESTING OFFICER: POM MOHAMMAD JAMAL</b>  |                | Arrest #: M16649719   |                 |
| Tax Number: 953996<br>Other ID (non-NYPD): 953996<br>Shield: 13596<br>Department: NYPD<br>Command: 806            |                | On Duty: YES<br>In Uniform: YES<br>Squad: NC<br>Chart: 97<br>Primary Assignment:  |                 |
|   |                | <b>Force Used: NO</b><br>Type:<br>Reason:<br>Officer Injured: NO<br>Officer Body Worn Camera:<br>TRI Number: 0000-000-00000 Suffix: 0 |                 |
| SEALED  |                | SEALED  |                 |
| Arresting Officer Name:<br>POM JAMAL, MOHAMMAD  |                | Tax #:<br>953996  | Command:<br>806 |
| Supervisor Approving:<br>SGT SANCHEZ CHRIST   |                | Tax #:<br>947847  | Command:<br>806 |
| Report Entered by:<br>POM JAMAL, MOHAMMAD   |                | Tax #:<br>953996  | Command:<br>806 |
| Agency:<br>NYPD   |                |   |                 |
| Agency:<br>NYCHA  |                |   |                 |
| Agency:<br>NYPD   |                |   |                 |
| <b>END OF ARREST REPORT</b><br>M16649719  |                |   |                 |

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

Thurman Turner (M 32),

Defendant.

MISDEMEANOR

2016NY043331



Police Officer Mohammad Jamal, Shield 13596 of the Housing Bureau PSA 6,  
states as follows:

The defendant is charged with:

1 PL 221.10(2)

Criminal Possession of marijuana in the Fifth  
Degree

(defendant #1: 1 count)

2 PL 221.05

Unlawful Possession Of Marijuana

(defendant #1: 1 count)

On or about July 15, 2016 at about 8:04 P.M., at 200 West 131 Street in the  
County and State of New York, the defendant knowingly and unlawfully possessed a  
substance containing marijuana and the preparations, compounds, mixtures and substances  
are an aggregate weight of more than twenty-five grams; the defendant knowingly and  
unlawfully possessed marijuana.

The factual basis for these charges are as follows:

I took two bags containing seven bags of marijuana from the defendant's pocket. I  
know that the substance is marijuana based on my training and experience as a police officer,  
the appearance of the substance, and the odor of the substance. Furthermore, the defendant  
stated to me in substance: I just have a little bit of weed.

Based on my professional training as a police officer and my prior experience  
making drug arrests, I know that the total weight of the substance is greater than twenty-five  
grams.

False statements made in this written instrument are punishable as a class A  
misdemeanor pursuant to section 210.45 of the Penal Law, and as other crimes.

Police Officer Mohammad Jamal

7/16/16  
Date

1015  
Time